

SERVED: June 10, 1993

NTSB Order No. EA-3894

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 28th day of May, 1993

| | | |
|----------------------------------|---|-----------------|
| JOSEPH M. DEL BALZO, |) | |
| Acting Administrator, |) | |
| Federal Aviation Administration, |) | |
| |) | |
| Complainant, |) | |
| |) | Docket SE-12745 |
| v. |) | |
| |) | |
| FRED CATCHPOLE, |) | |
| |) | |
| Respondent. |) | |
| |) | |

ORDER DISMISSING APPEAL

On January 26, 1993, Administrative Law Judge William E. Fowler, Jr. issued a written decision dismissing, on the Administrator's motion, the respondent's challenge to the validity of an August, 1990 agreement that he, as president of TPI International Airways, had entered into with the FAA concerning the terms under which the operations specifications for a DC-8 aircraft would be returned so that it could be used in TPI's Part 121 air carrier operations.¹ The law judge concluded, as the Administrator had argued, that the Board did not have authority to review the matter. In response to the respondent's appeal from that conclusion, the Administrator has filed another motion to dismiss, urging us to deny respondent's request that we overturn the law judge's ruling and remand the case for a hearing. We will grant the motion.

¹A copy of the law judge's decision is attached.

Although respondent filed no answer to the Administrator's motion to dismiss his appeal, the motion is in some ways essentially a reply brief, in that it undertakes to respond to various arguments respondent makes in his appeal brief, many of which had been previously presented to and rejected by the law judge.² In any event, we agree with the Administrator that the respondent has not identified any ground on which the law judge's decision should be disturbed.³

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted, and
2. The respondent's appeal is dismissed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

²For the most part, the respondent's brief espouses various theories as to why he believes the Board should accept jurisdiction without demonstrating that the law judge's contrary determination was erroneous.

³While we concur in the judgment that the Board lacks jurisdiction to review the propriety of the Administrator's actions in connection with the settlement at issue, we do not endorse the law judge's assertion that such actions are "unreviewable." See Order at 2. We think it sufficient to register our opinion that review is not available at this agency.